

1983 Assembly Bill 893

Date of enactment: April 25, 1984
Date of publication: May 1, 1984

1983 Wisconsin Act 376

AN ACT to create 853.50 to 853.62 of the statutes, relating to the Wisconsin basic will and basic will with trust.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 853.50 to 853.62 of the statutes are created to read:

853.50 Definitions. In ss. 853.50 to 853.62:

(1) "By right of representation" means that the issue of a deceased person inherit the share of an estate that their immediate ancestor would have inherited, if living.

(2) "Children" includes all children whether born or adopted before or after a Wisconsin basic will or basic will with trust is executed.

(3) "Issue" means children, grandchildren, great-grandchildren, and lineal descendants of more remote degrees, including those who occupy that relation by reason of adoption under s. 851.51 and children who are not legitimate and their lineal descendants to the extent provided by s. 852.05.

(4) "Testator" means any person choosing to make a Wisconsin basic will or basic will with trust.

(5) "Trustee" means a person so designated in a Wisconsin basic will with trust and any other person acting at any time as the trustee under a Wisconsin basic will with trust.

(6) "Wisconsin basic will" means a Wisconsin basic will executed in accordance with ss. 853.50 to 853.62.

(7) "Wisconsin basic will with trust" means a Wisconsin basic will with trust executed in accordance with ss. 853.50 to 853.62.

853.51 Execution of will. The only method of executing a Wisconsin basic will or basic will with trust is for all of the following to occur:

(1) The testator shall do all of the following:

(a) Complete the blanks, boxes and lines according to the instructions. Any failure to comply with instructions described under s. 853.54 (3) does not affect the validity of the will.

(b) Sign the will.

(2) The witnesses shall do all of the following:

(a) Observe the testator's signing.

(b) Sign their names in the presence of the testator and each other.

853.52 Contents of wills. (1) There are 2 Wisconsin basic wills: the Wisconsin basic will and the Wisconsin basic will with trust.

(2) The Wisconsin basic will includes all of the following:

(a) The contents of the form for the Wisconsin basic will under s. 853.55.

(b) The full texts of each of the following:

1. The definitions under s. 853.50.

2. The clause under s. 853.57.

3. The property disposition clause under s. 853.58 adopted by the testator.

4. The mandatory clauses under s. 853.60.

(3) The Wisconsin basic will with trust includes all of the following:

(a) The contents of the form for the Wisconsin basic will with trust under s. 853.56.

(b) The full texts of each of the following:

1. The definitions under s. 853.50.

2. The clause under s. 853.57.

3. The property disposition clause under s. 853.59 adopted by the testator.

4. The mandatory clauses under ss. 853.60 and 853.61.

(4) Any person who prints forms for the Wisconsin basic will or basic will with trust shall place a signature line on each page of the printed document. A testator shall sign on each such line. Failure to comply with this subsection does not affect the validity of the will.

853.53 Selection of property disposition clause. If more than one property disposition clause is selected or if none is selected, the residuary property of a testator who signs a Wisconsin basic will or basic will with trust shall be distributed to the testator's heirs as if the testator did not make a will.

853.54 Revocation or revision. (1) A Wisconsin basic will or a basic will with trust may be revoked and may be amended in the same manner as other wills.

(2) Any additions to or deletions from the face of the form of the Wisconsin basic will or basic will with trust, other than in accordance with the instructions, shall be ineffective and shall be disregarded.

(3) Notwithstanding sub. (2), any failure to print in the proper places, provide the full name of a person or charity to receive a gift, include residences or use the phrase "not used" where applicable does not affect the validity of a Wisconsin basic will or basic will with trust.

853.55 Wisconsin basic will. The following is the form for the Wisconsin basic will:
NOTICE TO THE PERSON WHO SIGNS THIS WILL:

1. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF LAW OR BY ANY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS, AND IT DOES NOT NORMALLY APPLY TO PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENEFITS.
2. THIS WILL IS NOT DESIGNED TO REDUCE TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVISOR.
3. THIS WILL MAY NOT WORK WELL IF YOU HAVE CHILDREN BY A PREVIOUS MARRIAGE OR IF YOU HAVE BUSINESS PROPERTY, PARTICULARLY IF THE BUSINESS IS UNINCORPORATED.
4. YOU CANNOT CHANGE, DELETE OR ADD WORDS TO THE FACE OF THIS WISCONSIN BASIC WILL. YOU MAY REVOKE THIS WISCONSIN BASIC WILL, AND YOU MAY CHANGE IT BY SIGNING A NEW WILL.
5. THE FULL TEXT OF THIS WISCONSIN BASIC WILL, THE DEFINITIONS, THE PROPERTY DISPOSITION CLAUSES AND THE MANDATORY CLAUSES FOLLOW THE END OF THIS WILL AND ARE CONTAINED IN THE PROBATE CODE OF WISCONSIN (CHAPTERS 851 TO 882 OF THE WISCONSIN STATUTES).
6. THE WITNESSES TO THIS WILL SHOULD NOT BE PEOPLE WHO MAY RECEIVE PROPERTY UNDER THIS WILL. YOU SHOULD READ AND CAREFULLY FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL. ALL OF THE WITNESSES MUST WATCH YOU SIGN THIS WILL. EACH WITNESS MUST SIGN HIS OR HER NAME WITH YOU AND THE OTHER WITNESS PRESENT.
7. YOU SHOULD KEEP THIS WILL IN YOUR SAFE-DEPOSIT BOX OR OTHER SAFE PLACE.
8. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.
9. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY ARE NATURAL CHILDREN.
10. IF YOU HAVE CHILDREN UNDER 21 YEARS OF AGE, YOU MAY WISH TO USE THE WISCONSIN BASIC WILL WITH TRUST OR ANOTHER TYPE OF WILL.
11. IF THIS WISCONSIN BASIC WILL DOES NOT FIT YOUR NEEDS, YOU MAY WANT TO CONSULT WITH A LAWYER.

[A printed form for a Wisconsin basic will shall set forth the above notice in 10-point boldface type.]

WISCONSIN BASIC WILL OF

.....
(Insert Your Name)

Article 1. Declaration.

This is my will and I revoke any prior wills and codicils (additions to prior wills).

Article 2. Disposition of My Property

2.1. PERSONAL, RECREATIONAL AND HOUSEHOLD ITEMS. Except as provided in paragraph 2.2, I give all my furniture, furnishings, household items, recreational equipment, personal automobiles and personal effects to my spouse, if living; otherwise they shall be divided equally among my children who survive me.

2.2 GIFTS TO PERSONS OR CHARITIES. I make the following gifts to the persons or charities in the cash amount stated in words (.... Dollars) and figures (\$....) or of the property described. I SIGN IN EACH BOX USED. I WRITE THE WORDS "NOT USED" IN THE REMAINING BOXES. If I fail to sign opposite any gift, then no gift is made. If the person mentioned does not survive me or if the charity does not accept the gift, then no gift is made.

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

2.3. ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I adopt only one Property Disposition Clause in this paragraph by writing my signature on the line next to the title of the Property Disposition Clause I wish to adopt. I SIGN ON ONLY ONE LINE. I WRITE THE WORDS "NOT USED" ON THE REMAINING LINE. If I sign on more than one line or if I fail to sign on any line, the property will go under Property Disposition Clause (b) and I realize that means the property will be distributed as if I did not make a will in accordance with Chapter 852 of the Wisconsin Statutes.

PROPERTY DISPOSITION CLAUSES (Select one.)

- (a) TO MY SPOUSE IF LIVING;
 IF NOT LIVING, THEN TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD BY RIGHT OF REPRESENTATION.
- (b) TO BE DISTRIBUTED AS IF I DID NOT HAVE A WILL.

Article 3. Nominations of Personal Representative and Guardian

3.1. PERSONAL REPRESENTATIVE. (Name at least one.)

I nominate the person or institution named in the first box of this paragraph to serve as my personal representative. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes. I confer upon my personal representative the authority to do and perform any act which he or she determines is in the best interest of the estate, with no limitations. This provision shall be given the broadest possible construction. This authority includes, but is not limited to, the power to borrow money, pledge assets, vote stocks and participate in reorganizations, to sell or exchange real or personal property, and to invest funds and retain securities without any limitation by law for investments by fiduciaries.

FIRST PERSONAL REPRESENTATIVE

SECOND PERSONAL REPRESENTATIVE

THIRD PERSONAL REPRESENTATIVE

3.2. GUARDIAN. (If you have a child under 18 years of age, you should name at least one guardian of the child.)

If my spouse dies before I do or if for any other reason a guardian is needed for any child of mine, then I nominate the person named in the first box of this paragraph to serve as guardian of the person and estate of that child. If the person does not serve, then I nominate the person named in the second box of this paragraph to serve as guardian of that child.

FIRST GUARDIAN

SECOND GUARDIAN

3.3. BOND.

My signature in this box means I request that a bond, as set by law, be required for each individual personal representative or guardian named in this will. IF I DO NOT SIGN IN THIS BOX, I REQUEST THAT A BOND NOT BE REQUIRED FOR ANY OF THOSE PERSONS.

I sign my name to this Wisconsin Basic Will on (date), at (city), (state).

.....
Signature of Testator

STATEMENT OF WITNESSES (You must use two adult witnesses.)

EACH OF US DECLARES THAT THE TESTATOR SIGNED THIS WISCONSIN BASIC WILL IN OUR PRESENCE, ALL OF US BEING PRESENT AT THE SAME TIME, AND WE NOW, AT THE TESTATOR'S REQUEST, IN THE TESTATOR'S PRESENCE AND IN THE PRESENCE OF EACH OTHER, SIGN BELOW AS WITNESSES, DECLARING THAT THE TESTATOR APPEARS TO BE OF SOUND MIND AND UNDER NO UNDUE INFLUENCE.

Signature Residence Address:
Print Name
Here:

Signature Residence Address:
Print Name
Here:

853.56 Wisconsin basic will with trust. The following is the form for the Wisconsin basic will with trust:

NOTICE TO THE PERSON WHO SIGNS THIS WILL:

1. THIS FORM CONTAINS A TRUST FOR YOUR FAMILY. IF YOU DO NOT WANT TO CREATE A TRUST, DO NOT USE THIS FORM.

2. THIS WILL DOES NOT DISPOSE OF PROPERTY WHICH PASSES ON YOUR DEATH TO ANY PERSON BY OPERATION OF LAW OR BY ANY CONTRACT. FOR EXAMPLE, THE WILL DOES NOT DISPOSE OF JOINT TENANCY ASSETS, AND IT DOES NOT NORMALLY APPLY TO PROCEEDS OF LIFE INSURANCE ON YOUR LIFE OR YOUR RETIREMENT PLAN BENEFITS.

3. THIS WILL IS NOT DESIGNED TO REDUCE TAXES. YOU SHOULD DISCUSS THE TAX RESULTS OF YOUR DECISIONS WITH A COMPETENT TAX ADVISOR.

4. THIS WILL MAY NOT WORK WELL IF YOU HAVE CHILDREN BY A PREVIOUS MARRIAGE OR IF YOU HAVE BUSINESS PROPERTY, PARTICULARLY IF THE BUSINESS IS UNINCORPORATED.

5. YOU CANNOT CHANGE, DELETE OR ADD WORDS TO THE FACE OF THIS WISCONSIN BASIC WILL WITH TRUST. YOU MAY REVOKE THIS WISCONSIN BASIC WILL WITH TRUST, AND YOU MAY CHANGE IT BY SIGNING A NEW WILL.

6. THE FULL TEXT OF THIS WISCONSIN BASIC WILL WITH TRUST, THE DEFINITIONS, THE PROPERTY DISPOSITION CLAUSES AND THE MANDATORY CLAUSES FOLLOW THE END OF THIS WILL AND ARE CONTAINED IN THE PROBATE CODE OF WISCONSIN (CHAPTERS 851 TO 882 OF THE WISCONSIN STATUTES).

7. THE WITNESSES TO THIS WILL SHOULD NOT BE PEOPLE WHO MAY RECEIVE PROPERTY UNDER THIS WILL. YOU SHOULD READ AND CAREFULLY FOLLOW THE WITNESSING PROCEDURE DESCRIBED AT THE END OF THIS WILL. ALL OF THE WITNESSES MUST WATCH YOU SIGN THIS WILL. EACH WITNESS MUST SIGN HIS OR HER NAME WITH YOU AND THE OTHER WITNESS PRESENT.

8. YOU SHOULD KEEP THIS WILL IN YOUR SAFE-DEPOSIT BOX OR OTHER SAFE PLACE.

9. THIS WILL TREATS ADOPTED CHILDREN AS IF THEY ARE NATURAL CHILDREN.

10. IF YOU MARRY OR DIVORCE AFTER YOU SIGN THIS WILL, YOU SHOULD MAKE AND SIGN A NEW WILL.

11. IF THIS WISCONSIN BASIC WILL WITH TRUST DOES NOT FIT YOUR NEEDS, YOU MAY WANT TO CONSULT WITH A LAWYER.

[A printed form for a Wisconsin basic will with trust shall set forth the above notice in 10-point boldface type.]

WISCONSIN BASIC WILL WITH TRUST OF

.....
(Insert Your Name)

Article 1. Declaration.

This is my will and I revoke any prior wills and codicils (additions to prior wills).

Article 2. Disposition of My Property

2.1. PERSONAL, RECREATIONAL AND HOUSEHOLD ITEMS. Except as provided in paragraph 2.2, I give all my furniture, furnishings, household items, recreational equipment, personal automobiles and personal effects to my spouse, if living; otherwise they shall be divided equally among my children who survive me.

2.2 GIFTS TO PERSONS OR CHARITIES. I make the following gifts to the persons or charities in the cash amount stated in words (... Dollars) and figures (\$...) or of the property described. I SIGN IN EACH BOX USED. I WRITE THE WORDS "NOT USED" IN THE REMAINING BOXES. If I fail to sign opposite any gift, then no gift is made. If the person mentioned does not survive me or if the charity does not accept the gift, then no gift is made.

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

FULL NAME OF PERSON OR CHARITY TO RECEIVE GIFT. (Name only one. Please print.)	AMOUNT OF CASH GIFT OR DESCRIPTION OF PROPERTY.	SIGNATURE OF TESTATOR.
--	---	-------------------------------------

2.3. ALL OTHER ASSETS (MY "RESIDUARY ESTATE"). I adopt only one Property Disposition Clause in this paragraph by writing my signature on the line next to the title of the Property Disposition Clause I wish to adopt. I SIGN ON ONLY ONE LINE. I WRITE THE WORDS "NOT USED" ON THE REMAINING LINES. If I sign on more than one line or if I fail to sign on any line, the property will be distributed as if I did not make a will in accordance with Chapter 852 of the Wisconsin Statutes.

IF YOU HAVE A SUBSTANTIAL ESTATE, CHOOSING CLAUSE (a) OR (b) MIGHT NOT BE THE MOST ADVANTAGEOUS TAX OPTION AVAILABLE TO YOU. If you have questions concerning the tax implications of these clauses, you should consult a competent tax advisor.

PROPERTY DISPOSITION CLAUSES (Select one.)

(a) TO MY SPOUSE IF LIVING;
IF NOT LIVING, THEN IN
ONE TRUST TO PROVIDE
FOR THE SUPPORT AND
EDUCATION OF MY CHILD-
REN AND THE DESCENDANTS
OF ANY DECEASED CHILD
BY RIGHT OF REPRESENTA-
TION UNTIL I HAVE NO
LIVING CHILD UNDER 21
YEARS OF AGE.

.....

(IF YOU CHOOSE THIS
CLAUSE AND YOU DO NOT
WANT 21 YEARS OF AGE
TO APPLY, PRINT A
DIFFERENT AGE, 18 OR
ABOVE, AND SIGN ON THIS
LINE.)

.....

(b) TO MY SPOUSE AND
CHILDREN AND THE
DESCENDANTS OF ANY
DECEASED CHILD BY RIGHT
OF REPRESENTATION IN
ONE TRUST TO PROVIDE
FOR THEIR SUPPORT AND
EDUCATION UNTIL I HAVE
NO LIVING SPOUSE AND NO
LIVING CHILD UNDER 21
YEARS OF AGE.

.....

(IF YOU CHOOSE THIS
CLAUSE AND YOU DO NOT
WANT 21 YEARS OF AGE
TO APPLY, PRINT A
DIFFERENT AGE, 18 OR
ABOVE, AND SIGN ON THIS
LINE.)

.....

Article 3. Nominations of Personal Representative, Trustee and Guardian

3.1. PERSONAL REPRESENTATIVE. (Name at least one.)

I nominate the person or institution named in the first box of this paragraph to serve as my personal representative. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes. I confer upon my personal representative the authority to do and perform any act which he or she determines is in the best interest of the estate, with no limitations. This provision shall be given the broadest possible construction. This authority includes, but is not limited to, the power to borrow money, pledge assets, vote stocks and participate in reorganizations, to sell or exchange real or personal property, and to invest funds and retain securities without any limitation by law for investments by fiduciaries.

FIRST PERSONAL REPRESENTATIVE

SECOND PERSONAL REPRESENTATIVE

THIRD PERSONAL REPRESENTATIVE

3.2. TRUSTEE. (Name at least one.)

Because it is possible that after I die my property may be put into a trust, I nominate the person or institution named in the first box of this paragraph to serve as trustee of that trust. If that person or institution does not serve, then I nominate the others to serve in the order I list them in the other boxes.

FIRST TRUSTEE

SECOND TRUSTEE

THIRD TRUSTEE

3.3. GUARDIAN. (If you have a child under 18 years of age, you should name at least one guardian of the child.)

If my spouse dies before me or for any other reason a guardian is needed for any child of mine, then I nominate the person named in the first box of this paragraph to serve as guardian of the person and estate of that child. If the person does not serve, then I nominate the person named in the second box of this paragraph to serve as guardian of that child.

FIRST GUARDIAN

SECOND GUARDIAN

3.4. BOND.

My signature in this box means I request that a bond, as set by law, be required for each individual personal representative, trustee or guardian named in this will. IF I DO NOT SIGN IN THIS BOX, I REQUEST THAT A BOND NOT BE REQUIRED FOR ANY OF THOSE PERSONS.

I sign my name to this Wisconsin Basic Will With Trust on (date), at (city), (state).

.....
Signature of Testator

STATEMENT OF WITNESSES (You must use two adult witnesses.)

EACH OF US DECLARES THAT THE TESTATOR SIGNED THIS WISCONSIN BASIC WILL WITH TRUST IN OUR PRESENCE, ALL OF US BEING PRESENT AT THE SAME TIME, AND WE NOW, AT THE TESTATOR'S REQUEST, IN THE TESTATOR'S PRESENCE AND IN THE PRESENCE OF EACH OTHER, SIGN BELOW AS WITNESSES, DECLARING THAT THE TESTATOR APPEARS TO BE OF SOUND MIND AND UNDER NO UNDUE INFLUENCE.

Signature Residence Address:
Print Name

Here:

Signature Residence Address:
Print Name

Here:

853.57 Personal, recreational and household items. The following is the full text of paragraph 2.1 of the Wisconsin basic will and the basic will with trust:

If my spouse survives me, I give my spouse all my books, jewelry, clothing, personal automobiles, recreational equipment, household furnishings and effects, and other tangible articles of a household, recreational or personal use, together with all policies of insurance insuring any such items. If my spouse does not survive me, the personal representative shall distribute those items among my children who survive me, and shall distribute those items in as nearly equal shares as feasible in the personal representative's discretion. If none of my children survive me, the items described in this paragraph shall become part of the residuary estate.

853.58 Residuary estate; basic will. The following is the full text of the property disposition clauses referred to in paragraph 2.3 of the Wisconsin basic will:

(a) TO MY SPOUSE IF LIVING; IF NOT LIVING, THEN TO MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD BY RIGHT OF REPRESENTATION.

If my spouse survives me, then I give all my residuary estate to my spouse. If my spouse does not survive me, then I give all my residuary estate to my descendants by right of representation who survive me. If my spouse and descendants do not survive me, the personal representative shall distribute my residuary estate to my heirs at law, their identities and respective shares to be determined according to the laws of the State of Wisconsin in effect on the date of my death.

(b) TO BE DISTRIBUTED AS IF I DID NOT HAVE A WILL:

The personal representative shall distribute my residuary estate to my heirs at law, their identities and respective shares to be determined according to the laws of the State of Wisconsin in effect on the date of my death.

853.59 Residuary estate; basic will with trust. The following is the full text of the property disposition clauses referred to in paragraph 2.3 of the Wisconsin basic will with trust, except that if a different age is specified by the testator in the Wisconsin basic will with trust, that specified age is substituted for 21 years in this section:

(a) TO MY SPOUSE IF LIVING; IF NOT LIVING, THEN IN ONE TRUST TO PROVIDE FOR THE SUPPORT AND EDUCATION OF MY CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD BY RIGHT OF REPRESENTATION UNTIL I HAVE NO LIVING CHILD UNDER 21 YEARS OF AGE.

(1) If my spouse survives me, then I give all my residuary estate to my spouse.

(2) If my spouse does not survive me and if any child of mine under 21 years of age survives me, then I give all my residuary estate to the trustee, in trust, on the following terms:

(A) As long as any child of mine under 21 years of age is living, the trustee shall distribute from time to time to or for the benefit of any one or more of my children and the descendants of any deceased child (the beneficiaries) by right of representation of any age as much, or all, of the principal or net income of the trust or both, as the trustee deems necessary for their health, support, maintenance and education of my descendants. Any undistributed income shall be accumulated and added to the principal. "Education" includes, but is not limited to, college, vocational and other studies after high school, and reasonably related living expenses. Consistent with the trustee's fiduciary duties, the trustee may distribute trust income or principal in equal or unequal shares and to any one or more of the beneficiaries to the exclusion of other beneficiaries. In deciding on distributions, the trustee may take into account the beneficiaries' other income, outside resources or sources of support, including the capacity for gainful employment of a beneficiary who has completed his or her education.

(B) The trust shall terminate when there is no living child of mine under 21 years of age. The trustee shall distribute any remaining principal and accumulated net income of the trust to my descendants by right of representation who are then living. If principal becomes distributable to a person under legal disability, the trustee may postpone the distribution until the disability is removed. In that case, the assets shall be administered as a separate trust under this Wisconsin basic will with trust and the net income and principal shall be applied for the benefit of the beneficiary at such times and in such amounts as the trustee considers appropriate. If the beneficiary dies before the removal of the disability, the remaining assets shall be distributed to his or her estate.

(3) If my spouse does not survive me and if no child of mine under 21 years of age survives me, then I give all my residuary estate to my descendants by right of representation who survive me. If my spouse and descendants do not survive me, the personal representative shall distribute my residuary estate to my heirs at law, their identities and respective shares to be determined according to the laws of the State of Wisconsin in effect on the date of my death.

(b) TO MY SPOUSE AND CHILDREN AND THE DESCENDANTS OF ANY DECEASED CHILD BY RIGHT OF REPRESENTATION IN ONE TRUST TO PROVIDE FOR THEIR SUPPORT AND EDUCATION UNTIL I HAVE NO LIVING SPOUSE OR CHILD UNDER 21 YEARS OF AGE.

(1) I give all my residuary estate to the trustee, in trust, on the following terms:

(A) As long as my spouse or any child of mine under 21 years of age is living, the trustee shall distribute from time to time to or for the benefit of my spouse or any one or more of my children and the descendants of any deceased child (the beneficiaries) by right of representation of any age as much or all, of the principal or net income of the trust or both as the trustee deems necessary for their health, support, maintenance and education. Any undistributed income shall be accumulated and added to the principal. "Education" includes, but is not limited to, college, vocational and other studies after high school, and reasonably related living expenses. The welfare of my spouse is the primary consideration regarding distributions. Consistent with the trustee's fiduciary duties, the trustee may distribute trust income or principal in equal or unequal shares and to any one or more of the beneficiaries to the exclusion of other beneficiaries. In deciding on distributions, the trustee may take into account the beneficiaries' other income, outside resources or sources of support, including the capacity for gainful employment of a beneficiary who has completed his or her education.

(B) The trust shall terminate when my spouse is not living and there is no living child of mine under 21 years of age. The trustee shall distribute any remaining principal and accumulated net income of the trust to my descendants by right of representation who are then living. If principal becomes distributable to a person under legal disability, the trustee may postpone the distribution until the disability is removed. In that case, the assets shall be administered as a separate trust under this Wisconsin basic will with trust and the net income and principal shall be applied for the benefit of the beneficiary at such times and in such amounts as the trustee considers appropriate. If the beneficiary dies before the removal of the disability, the remaining assets shall be distributed to his or her estate.

(2) If no child of mine under 21 years of age survives me, then I give all my residuary estate to my descendants by right of representation who survive me. If my spouse and descendants do not survive me, the personal representative shall distribute my residuary estate to my heirs at law, their identities and respective shares to be determined according to the laws of the State of Wisconsin in effect on the date of my death.

853.60 Mandatory clauses. The Wisconsin basic will and basic will with trust include the following mandatory clauses:

(1) **INTESTATE DISPOSITION.** If the testator has not made an effective disposition of the residuary estate, the personal representative shall distribute it to the testator's heirs at law, their identities and respective shares to be determined according to the laws of the state of Wisconsin in effect on the date of the testator's death.

(2) **POWERS OF PERSONAL REPRESENTATIVE.** (a) In addition to any powers conferred upon personal representatives by law, the personal representative may do any of the following:

1. Sell estate assets at public or private sale, for cash or on credit terms.
2. Lease estate assets without restriction as to duration.
3. Invest any surplus moneys of the estate in real or personal property, as the personal representative deems advisable.

(b) The personal representative may distribute estate assets otherwise distributable to a minor beneficiary to any of the following:

1. The guardian of the minor's person or estate.
2. Any adult person with whom the minor resides and who has the care, custody or control of the minor.
3. A custodian, serving on behalf of the minor under the uniform gifts to minors act of any state.

(c) On any distribution of assets from the estate, the personal representative may partition, allot and distribute the assets in kind, including undivided interests in an asset or in any part of it; partly in cash and partly in kind; or entirely in cash. If a distribution is being made to more than one beneficiary, the personal representative may distribute assets among them on a prorated or nonprorated basis, with the assets valued as of the date of distribution.

(3) **POWERS OF GUARDIAN.** A guardian of the person or of the estate nominated in the Wisconsin basic will or basic will with trust, and subsequently appointed, shall have all of the powers conferred by law.

853.61 Mandatory clauses; basic will with trust. The Wisconsin basic will with trust includes the following mandatory clauses:

(1) **INEFFECTIVE DISPOSITION.** If, at the termination of any trust created in the Wisconsin basic will with trust, there is no effective disposition of the remaining trust assets, then the trustee shall distribute those assets to the testator's then living heirs at law, their identities and respective shares to be determined as though the testator had died on the date of the trust's termination and according to the laws of the state of Wisconsin then in effect.

(2) **POWERS OF TRUSTEE.** (a) In addition to any powers conferred upon trustees by law, the trustee shall have all the powers listed in s. 701.16.

(b) In addition to the powers granted in par. (a), the trustee may:

1. Hire and pay from the trust the fees of investment advisors, accountants, tax advisors, agents, attorneys and other assistants for the administration of the trust and for the management of any trust asset and for any litigation affecting the trust.

2. On any distribution of assets from the trust, the trustee may partition, allot and distribute the assets in kind, including undivided interests in an asset or in any part of it; partly in cash and partly in kind; or entirely in cash. If a distribution is being made to more than one beneficiary, the trustee shall have the discretion to distribute assets among them on a prorated or nonprorated basis, with the assets valued as of the date of distribution.

3. The trustee may, upon termination of the trust, distribute assets to a custodian for a minor beneficiary under the uniform gifts to minors act of any state. The trustee is free of liability and is discharged from any further accountability for distributing assets in compliance with this section.

(3) **TRUST ADMINISTRATIVE PROVISIONS.** The following provisions shall apply to any trust created by a Wisconsin basic will with trust:

(a) The interests of trust beneficiaries shall not be transferable by voluntary or involuntary assignment or by operation of law and shall be free from the claims of creditors and from attachment, execution, bankruptcy or other legal process to the fullest extent permissible by law.

(b) The trustee shall be entitled to reasonable compensation for ordinary and extraordinary services, and for all services in connection with the complete or partial termination of any trust created by this will.

(c) All persons who have any interest in a trust under a Wisconsin basic will with trust are bound by all discretionary determinations the trustee makes in good faith under the authority granted in the Wisconsin basic will with trust.

853.62 Date of execution of will. Except as specifically provided in ss. 853.50 to 853.61, a Wisconsin basic will or basic will with trust includes only the texts of the property disposition clauses and the mandatory clauses as they exist on the day the will is executed.
